

**JUNCTION CITY/MILFORD/GEARY COUNTY
METROPOLITAN PLANNING COMMISSION
BOARD OF ZONING APPEALS**

MINUTES

August 14, 2014

**Members
(Present)**

Maureen Gustafson, Chair
Ken Mortensen, Vice-Chair
Gayle Edmiston
Brandon Dibben
Chuck Mowry
Mike Watson

**Members
(Absent)**

John Moyer

**Staff
(Present)**

David Yearout
Shari Lenhart

1. CALL TO ORDER & ROLL CALL

Chair Gustafson called the meeting to order at 7:00 p.m. and declared a quorum of members present; noting the absence of Commissioner Moyer.

2. APPROVAL OF MINUTES

Commissioner Mortensen moved to approve the minutes of the July 10, 2014, meeting as written. Commissioner Dibben seconded the motion and it carried unanimously.

3. NEW BUSINESS

Item No. 1 – TA-08-01-14 – Public Hearing to consider a Text Amendment to the Junction City Zoning Regulations.

Chair Gustafson opened the public hearing on the application of the Metropolitan Planning Commission to amend the Junction City Zoning Regulations to expand where and how a Special Use Permit may be used in any zoning district and called for the staff report.

Mr. Yearout stated this text amendment was initiated by the MPC as a result of the discussion at the last meeting regarding the rezoning of property on Barnhill Circle. The consensus was to amend to the Zoning Regulations to provide the latitude to consider a Special Use Permit rather than a rezoning when it is determined the proposed use would not be harmful to the neighborhood. Mr. Yearout stated the proposed language is set out in the staff report, and if approved, will be incorporated into Section 445.180, Special Uses Enumerated, in the City Zoning Regulations.

Mr. Yearout stated this option would come into play when an applicant has requested a rezoning of property and the MPC determines the zone sought would not be appropriate for the neighborhood; however, the proposed use is considered to not be detrimental to the area. The Commission will have the option to recommend the Special Use Permit, as "zoning to a more restrictive classification" according to the language proposed. Mr. Yearout explained this would be like any other Special Use Permit, wherein appropriate conditions and restrictions may be made a part of any recommendation to approve the request. In addition, final approval will rest with the City Commission. Mr. Yearout stated staff recommends the text amendment be recommended for approval.

There being no questions of staff, Chair Gustafson opened the hearing for public comment. There being no appearances or comments, Chair Gustafson closed the public hearing.

Commissioner Mortensen moved that Case No. TA-08-01-14, the request to amend the Junction City Zoning Regulations by expanding uses that can be considered as a Special Use Permit, be recommended for approval by the City Commission of the City of Junction City, Kansas, for the reasons stated in the Staff Report and as heard at this public hearing. Commissioner Mowry seconded the motion and it carried unanimously.

Item No. 2 – VC-08-01-14 – Public Hearing to consider vacation of a building setback line.

Chair Gustafson opened the public hearing on the application of Mardell Floberg, owner, requesting the vacation of a portion of a platted building setback line on Lot 27, Block 1, Rockwood West Unit 2 Addition, Geary County, Kansas, more commonly known as 3325 Northwood Drive, Milford, Kansas, and asked for the staff report.

Mr. Yearout stated there are three cases associated with this request, all on the agenda for tonight. Mr. Yearout stated, in order to simplify the matter, one staff report was prepared which outlines each issue, options available to the Commission, and Staff's recommendation.

Mr. Yearout stated staff was approached by Mr. Floberg concerning a request to build a second accessory building on his property. Mr. Yearout explained the proposed size and location of the building, as set out by Mr. Floberg, did not comply with several areas of the County Zoning Regulations. Besides the encroachment into the platted building setback line; this request would require a variance from the front yard building setback limitations and would require a Special Exception because of the size of the proposed structure. Mr. Floberg made application for consideration of all three actions.

Mr. Yearout stated it is important to outline the full history of the activity on this lot. Within the Commission packets are copies of an aerial photo of the property; the recorded plat; a previous vacation Order approved by the County Commission in July of 1994, which vacated the platted 20-foot utility easement on the west side of the lot; a Grant of Easement from the Flobergs to Rural Water District #4 along the west 10 feet of the lot to install and maintain a water line only; building permits obtained by Mr. Floberg in 1986 for the home, 1988 for a 12x16 storage shed, and 2004 for a 30 x 40 metal building; Mr.

Floberg's applications and supporting documents; and memos from staff. Mr. Yearout stated Lisa Davies, County Health Sanitarian, reported the Health Department has no records of when or exactly where the onsite wastewater treatment system is located for this property. The previous building permits show it located in two different areas on the property.

As for the request to vacate the platted building setback line, Mr. Yearout stated staff believes granting the vacation request would establish a serious precedent, not just for this neighborhood, but also for other rural parts of Geary County. The setbacks established in the platting have been followed by all other property owners and is a binding agreement for everyone living in the development. In this instance, staff does not believe the applicant has adequately stated why another location on the property cannot be used for the building. Also, there are concerns of whether this is beginning to approach more "building coverage" than can be accommodated on the site. Staff does acknowledge there are topography issues along the west side of the property near the public road that create some challenges; but not enough to warrant the vacation request.

Mr. Yearout stated staff received a call from Mr. Cliff White, representing Rural Water District #4, inquiring whether this was a request to vacate any portion of the 10-foot utility easement. Mr. White was informed it only applied to the platted building line.

Mr. Yearout stated staff understands the desire to provide cover for the additional vehicles and equipment; however, there appears to be adequate area in the rear of the property without violating the platted setback line, or putting a building into the front yard. Mr. Yearout stated staff is recommending denial of the petition to vacate the platted building setback.

As previously noted, in conjunction with the vacation request, Mr. Floberg is also requesting a variance to allow construction to occur within the required front yard. The front yard requirement in the "SR" District of the Geary County Zoning Regulations is also 30-feet. Mr. Yearout stated the road dead-ends at Mr. Floberg's property and the topography varies. However, as stated in the staff report, there are five conditions that have to be met before the Board approves any variance request. In this case, staff believes this is exclusively a "self-imposed" hardship and is created by the action of the property owner. In addition, denial will not impose an unnecessary hardship upon the property owner because the proposed structure could be redesigned or located to another area on the property. Staff is recommending denial of the requested variance.

Mr. Yearout stated in reference to the special exception to exceed the allowed 900 square foot building, staff does not particularly have a problem with an accessory building of the requested size; but does object to the location. Staff has not located any accessory buildings in the immediate area that are in front of the homes. Mr. Yearout explained the current Geary County Zoning Regulations simply prohibit any accessory structure in a required front yard, which in this case is a 30-foot setback from the property line. If the lot is not conducive for relocation of the requested building, then the request is inappropriate for the lot size and should be denied.

Mr. Yearout concluded by reiterating that staff understands this is on a dead end street and there are topographical issues; however, it's an issue of over-building on the lot. Mr. Yearout stated, besides the call from Mr. White with the Rural Water District, a call was also received from Kay Schmittou, who lives behind the Flobergs. Ms. Schmittou stated she was opposed but gave no reasons.

There being no questions of staff at this time, Chair Gustafson opened the hearing for public comment.

Ronald McNemar, 3311 Northwood Drive, stated his concern was that a business would be put in the building. There was discussion within the neighborhood to that effect. It is his understanding that is not the case. He had no additional comments or concerns.

Mardell Floberg, 3325 Northwood Drive, applicant, stated they definitely did not intend to start or put any business in the building. It will be used strictly for their personal vehicles and equipment.

Mr. Floberg stated the building material is to match the home, it will be aesthetically appropriate. There is room in the back of the property; however, it would be difficult to maneuver the vehicles to that location and the proposed location is more accessible and convenient. There would be no problem with the existing septic system or laterals. Mr. Floberg stated he would be happy to answer any questions the Board may have.

There being no further appearances, Chair Gustafson closed the public hearing.

Discussion ensued between the applicant, Board members and staff in regards to number of vehicles, extent of encroachment into the required 30-foot setback, relocation of existing water hydrant in the area of the proposed building, the actual location of the onsite wastewater treatment system, past issues with the neighbor to the rear of the property (Kay Schmittou), tall evergreens that screen the location from the street, the fact it is a dead-end street, other design options, size of structure, and construction materials.

During discussion, it was determined the building extended 18 inches into the required 30-foot setback. Mr. Floberg agreed to move the building back the necessary 18 inches to eliminate the need to vacate any of the platted building setback. This will also result in not having to seek a variance for the reduction of the regulatory setback. The question was posed to Mr. Floberg if he would be willing to have a survey done of his property showing the exact location of the proposed building and existing buildings in relationship to the property lines. Mr. Floberg indicated he would.

Mr. Yearout stated, in light of Mr. Floberg agreeing to set the accessory structure back the required 30-feet, this case and the variance case are now a moot point. Mr. Floberg agreed to withdraw the cases and the Chair declared Case No. VC-08-01-14 withdrawn, which means no further action is required.

BOARD OF ZONING APPEALS ~ Recess as the Metropolitan Planning Commission and Convene as the Board of Zoning Appeals.

4. NEW BUSINESS

Item No. 1 – BZAV-08-0-14 – Public Hearing to consider a Variance from the Geary County Zoning Regulations.

The Chair opened the public hearing on the application of Mardell Floberg, owner, requesting a variance from Section 15-109(2)(A) of the Geary County Zoning Regulations, relating to accessory buildings occupying a required front yard, on Lot 27, Block 1, Rockwood West Unit 2 Addition, Geary County, Kansas, more commonly known as 3325 Northwood Drive, Milford, Kansas.

Mr. Yearout stated, for the record, this case is also a moot point since applicant agreed to move the proposed building back to the required 30-foot front yard setback per the Geary County Zoning Regulations. The Chair declared Case No. BZAV-08-01-14 withdrawn, which means no further action is required.

Item No. 2 – BZASE-08-01-14 – Public Hearing to consider a Special Exception from the Geary County Zoning Regulations.

Chair Gustafson opened the public hearing on the application of Mardell Floberg, owner, requesting a Special Exception to allow construction of an accessory structure in excess of the allowable 900 square feet; as provided by Section 17-104(4) of the Geary County Zoning Regulations, for Lot 27, Block 1, Rockwood West Unit 2 Addition, Geary County, Kansas, more commonly known as 3325 Northwood Drive, Milford, Kansas, and asked for the staff report.

Mr. Yearout stated the only remaining issue with the proposal at this location is the request to exceed the 900 square feet limitation of an accessory building. The proposed dimensions are 40-foot by 24-foot in size, which computes to 960 square feet. Mr. Yearout reiterated that staff does not have a problem with the size of the structure and since Mr. Floberg has agreed to the 30-foot setback, staff would now recommend approval of the Special Exception with the stipulation not to exceed 960 square feet and no commercial activity allowed.

Mr. Floberg noted the actual building will be 40 feet by 24 feet in size, however a small area will not be built in the southeast corner of the building where the access door is, which will reduce the building size to about 940 square feet.

Chair Gustafson asked if the Board members had any additional questions of staff or the applicant regarding the proposed size or use of the structure.

There being no further discussion or comments, Chair Gustafson closed the public hearing and called for a motion.

Commissioner Mortensen moved that Case No. BZASE-08-01-14, the request of Mardell L. and Suzetta M. Floberg, owners, requesting a Special Exception from the Geary County Zoning Regulations to allow construction of an accessory structure in excess of 900 square feet in the "SR" Suburban Residential District on property located at 3325 Northwood Drive, Milford, Kansas, be approved subject to the size limitation not to

exceed 940 square feet and no commercial business or use allowed in the building, based on additional information from Staff and as presented at this public hearing. Commissioner Mowry seconded the motion and it passed unanimously.

METROPOLITAN PLANNING COMMISSION – Adjourn as the Board of Zoning Appeals and reconvene as the Metropolitan Planning Commission.

5. GENERAL DISCUSSION

Item No. 1 – Update on Comprehensive Plan

Mr. Yearout stated he will be going to meet with the consultant in Omaha within the next couple of weeks to finalize adjustments to the draft Plan. The intent is to have a final draft for the Commission to review next month and possibly hold an open discussion session. Once the Commission is comfortable with the final document, it will set a public hearing for the following month. Nothing should be scheduled until the MPC has a chance to review the draft plan and make whatever adjustments or changes it wishes before the document is submitted to the public.

In response to a question, Mr. Yearout stated the MPC can either adopt the document at the public hearing and forward to the other governing bodies for adoption; or continue the public hearing to another date so additional changes can be made. Mr. Yearout explained the MPC does not have to adopt the proposed Comprehensive Plan Update document until they are satisfied with the final format.

Following a brief discussion, it was the consensus of the MPC to meet at 5:30 p.m. next month for a work session to discuss and review the draft Comp Plan prior to holding the regular monthly meeting. The hope would be to then schedule the public hearing in October, but that will have to be determined at the next meeting.

Item No. 2 – Metropolitan Planning Organization

Mr. Yearout stated there is nothing new to report. The MPO staff is working with the consultant in putting all the data together. Once completed, a presentation will be arranged for the MPC.

Item No. 3 – Vacation of Mid-America Drive

Mr. Yearout stated the City is interested in having Mid-America Drive, the public street off Old Highway 40 serving the building owned by the City and last occupied by the Jupiter Group business, vacated. Mr. Yearout explained this platted drive is located in the I-70 Industrial Park North Addition and the City owns all the lots surrounding the street. Mr. Yearout stated if the MPC agreed, they would need to vote to initiate a case on behalf of the City and the matter will be handled just like any other petition for a street vacation.

Following a brief discussion, Commissioner Watson moved to initiate a case on behalf of the City of Junction City to petition for vacation of Mid-America Drive. Commissioner Edmiston seconded the motion and it carried unanimously.

Item No. 4 – Other Items ~ Update on old cases

Mr. Yearout reported on the following outstanding cases:

SUP-11-01-13 – Sergio Torres: Mr. Yearout stated that Mr. Torres has done nothing about meeting the requirements established within the approved Special Use Permit for the vehicle storage area approved along the 200 block of East 2nd Street. The City Commission did approve the use of asphalt millings for the parking lot area. Mr. Torres did take out a fence permit; however, the fence is not complete and he has had to ask for an extension on the permit. Following discussion, it was the consensus that consideration should be given to either revoke or amend Mr. Torres' Special Use Permit.

Commissioner Mortensen moved to hold a public hearing to review the status of the Special Use Permit Mr. Torres received in November of 2013. Commissioner Dibben seconded the motion and it carried unanimously.

FP-09-02-12 – Final Plat for Rucker Heights Addition: Mr. Yearout stated this is a replat of the T. H. Young Subdivision located on Rucker Road south of the Olivia Farms Subdivision. Nothing further has been done on the development of this subdivision and staff recommends this be closed. The MPC concurred. Mr. Yearout stated he would notify the applicant of the intent to close the case unless there is an intent to resolve the open platting requirements very soon.

FP-12-01-13 – Final Plat for Stone Ridge Manor Addition Unit 2 and Z-12-01-13 – zoning for Stone Ridge Manor – Scott Johnson: Mr. Yearout stated at the time these cases were considered, the applicant requested final City Commission action be postponed until approximately April or May of 2014, which has come and gone. Mr. Yearout stated he would contact Mr. Johnson and inquire as to his plans for this property and whether or not he wishes to proceed. The MPC concurred and agreed adequate time has passed for Mr. Johnson to make a decision.

Z-03-01-13 – annex/zone – MPC (Richard Davis property): Mr. Yearout stated this is the property located at 1205 Hoover Road. At the time the MPC initiated this case, it was anticipated the property would be annexed and zoned. The home had been destroyed by fire and there were problems with the existing on-site wastewater treatment system, a non-conforming mobile home, and flood plain issues. The property owner wished to be annexed in order to hook up to City water. Due to the prohibitive cost to extend city sewer to this one property, the City Commission denied the requested sewer extension. Mr. Yearout stated, due to the issues and extenuating circumstances surrounding this case, it will remain open until further action on behalf of the City Commission.

6. ADJOURNMENT

Commissioner Watson moved to adjourn. Commissioner Edmiston seconded the motion and it carried unanimously. Chair Gustafson declared the meeting adjourned at 8:11 p.m.

PASSED and APPROVED this 11th day of September 2014.

Maureen Gustafson, Chair

ATTEST:

David L. Yearout, Secretary